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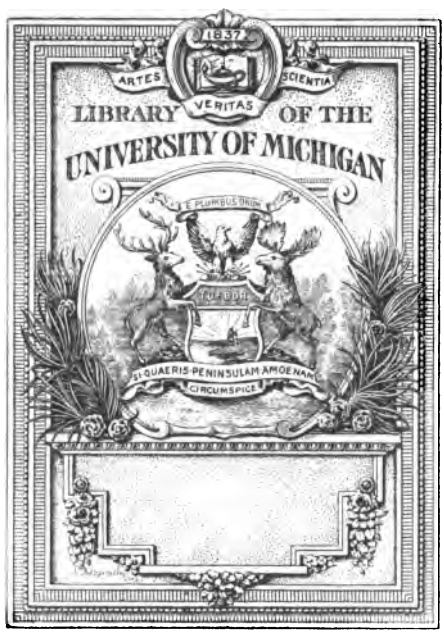
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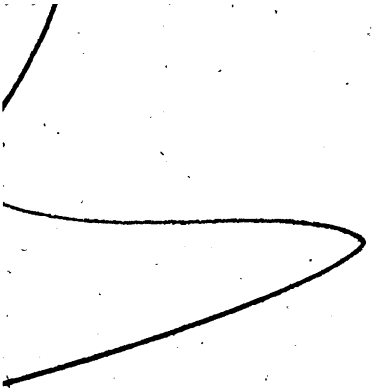

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DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE

MICHIGAN
1914

UNITED STATES LAWS AND REGULATIONS

RELATING TO

TOWNSITES, PARKS, AND CEMETERIES

(NOT APPLICABLE TO ALASKA)

U. S. Laws, statute, etc

APPROVED AUGUST 7, 1909

(For former regulations see 5 L. D., 265, and 32 L. D., 156)

WASHINGTON
GOVERNMENT PRINTING OFFICE
1909

UNITED STATES LAWS

RELATING TO

TOWNSITES, PARKS, AND CEMETERIES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 7, 1909.

COUNTY-SEAT TOWNSITES.

SEC. 2286. There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of preemption to one quarter section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each of such quarter sections shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

Act approved May 26, 1824 (4 Stat., 50, sec. 1).

TOWNSITES RESERVED BY PRESIDENT.

SEC. 2380. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population.

SEC. 2381. When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the register and receiver of the land office in the district in which the reservations may be situated, in accordance with the instructions of the Commissioner of the General Land Office.

Act approved March 3, 1863 (12 Stat., 754).

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Reclam. MVP. 12-31-36

TOWNSITES PLATTED BY OCCUPANTS.

SEC. 2382. In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; such map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land-Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land district, a similar map and statement shall be filed with the register and receiver, and at any time after the filing of such map, statement, and testimony in the General Land-Office it may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property. But any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements shall be entitled to prove up and purchase the same as a preemption, at such minimum, at any time before the day fixed for the public sale.

SEC. 2383. When such cities or towns are established upon unsurveyed lands, it may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

SEC. 2384. If within twelve months from the establishment of a city or town on the public domain, the parties interested refuse or fail to file in the General Land-Office a transcript map, with the statement and testimony called for by the provisions of section twenty-three hundred and eighty-two, it may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by such provisions, with this exception, that they shall each be at an increase of fifty per centum on the minimum of ten dollars per lot.

Act approved July 1, 1864 (13 Stat., 343, secs. 2, 3, and 4).

SEC. 2385. In the case of any city or town, in which the lots may be variant as to size from the limitation fixed in section twenty-

three hundred and eighty-two, and in which the lots and buildings, as municipal improvements, cover an area greater than six hundred and forty acres, such variance as to size of lots or excess in area shall prove no bar to such city or town claim under the provisions of that section; but the minimum price of each lot in such city or town, which may contain a greater number of square feet than the maximum named in that section, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish.

SEC. 2386. Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town-lots to be acquired shall be subject to such recognized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes as against the United States.

Act approved March 3, 1865 (13 Stat., 530, sec. 2). (See sec. 2392, Rev. Stats., and sec. 16, act of March 3, 1891, 26 Stat., 1101, *infra*.)

TOWNSITES ENTERED BY CORPORATE AUTHORITIES OR JUDGES OF COUNTY COURTS AS TRUSTEES.

SEC. 2387. Whenever any portion of the public lands have been or may be settled upon and occupied as a town-site, not subject to entry under the agricultural pre-emption laws, it is lawful, in case such town be incorporated, for the corporate authorities thereof, and, if not incorporated, for the judge of the county court for the county in which such town is situated, to enter at the proper land-office, and at the minimum price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated.

SEC. 2388. The entry of the land provided for in the preceding section shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town-site shall be filed with the register of the proper land-office, prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land-office may not have been established, such declaratory statements may be filed with the surveyor-general of the surveying-district in which the lands are situated, who shall transmit the same to the General Land-Office.

SEC. 2389. If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhabitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred, and less than one thousand, shall embrace not exceeding six hundred and forty acres;

and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; but for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed.

* * * * * * *

SEC. 2391. Any act of the trustees not made in conformity to the regulations alluded to in section twenty-three hundred and eighty-seven shall be void.

Act approved March 2, 1867 (14 Stat., 541). (See similar Act approved May 23, 1844, 5 Stat., 657, repealed by Act approved July 1, 1864, 13 Stat., 344, sec. 5.)

Acts approved June 23, 1874 (18 Stat., 254, sec. 3), and March 3, 1877 (19 Stat., 392).

SEC. 2392. No title shall be acquired, under the foregoing provisions of this chapter, to any mine of gold, silver, cinnabar, or copper; or to any valid mining-claim or possession held under existing laws.

Act approved March 2, 1867 (14 Stat., 542), and Act approved June 8, 1868 (15 Stat., 67). (See sec. 2386, Rev. Stats., *supra*, and sec. 16, Act of March 3, 1891, 26 Stat., 1101, *infra*.)

SEC. 2393. The provisions of this chapter shall not apply to military or other reservations heretofore made by the United States, nor to reservations for light-houses, custom-houses, mints, or such other public purposes as the interests of the United States may require, whether held under reservations through the Land-Office by title derived from the Crown of Spain, or otherwise.

Act approved March 2, 1867 (14 Stat., 542).

SEC. 2394. The inhabitants of any town located on the public lands may avail themselves, if the town authorities choose to do so, of the provisions of sections twenty-three hundred and eighty-seven, twenty-three hundred and eighty-eight, and twenty-three hundred and eighty-nine; and, in addition to the minimum price of the lands embracing any town site so entered, there shall be paid by the parties availing themselves of such provisions all costs of surveying and platting any such town site, and expenses incident thereto incurred by the United States, before any patent issues therefor; but nothing contained in the sections herein cited shall prevent the issuance of patents to persons who have made or may hereafter make entries, and elect to proceed under other laws relative to town-sites in this chapter set forth.

Act approved June 8, 1868 (15 Stat., 67).

ADDITIONAL TOWNSITES, ETC.

* * * * * * *

That the existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five

hundred and sixty acres of land, or the maximum area which may be entered as a town-site under existing laws, unless the entire tract claimed or incorporated as such town-site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.

SEC. 2. That where entries have been heretofore allowed upon lands afterwards ascertained to have been embraced in the corporate limits of any town, but which entries are or shall be shown, to the satisfaction of the Commissioner of the General Land Office, to include only vacant unoccupied lands of the United States, not settled upon or used for municipal purposes, nor devoted to any public use of such town, said entries, if regular in all respects, are hereby confirmed and may be carried into patent: *Provided*, That this confirmation shall not operate to restrict the entry of any town-site to a smaller area than the maximum quantity of land which, by reason of present population, it may be entitled to enter under said section twenty-three hundred and eighty-nine of the Revised Statutes.

SEC. 3. That whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section one of this act, the Commissioner of the General Land Office may require the authorities of such town, and it shall be lawful for them, to elect what portion of said lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead and pre-emption laws. And upon default of said town authorities to make such selection within sixty days after notification by the Commissioner, he may direct testimony respecting the actual location and extent of said improvements, to be taken by the register and receiver of the district in which such town may be situated; and, upon receipt of the same, he may determine and set off the proper site according to section one of this act, and declare the remaining lands open to settlement and entry under the homestead and pre-emption laws; and it shall be the duty of the secretary of each of the Territories of the United States to furnish the surveyor-general of the Territory for the use of the United States a copy duly certified of every act of the legislature of the Territory incorporating any city or town, the same to be forwarded by such secretary to the surveyor-general within one month from date of its approval.

SEC. 4. It shall be lawful for any town which has made, or may hereafter make entry of less than the maximum quantity of land named in section twenty-three hundred and eighty-nine of the Revised Statutes to make such additional entry, or entries, of contiguous tracts, which may be occupied for town purposes as when added to the entry or entries theretofore made will not exceed twenty-five hundred and sixty acres. *Provided*, That such additional entry shall not together with all prior entries be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section twenty-three hundred and eighty-nine.

Act approved March 3, 1877 (19 Stat., 392).

TOWNSITES ON MINERAL LANDS.

* * * * * * *

SEC. 16. That town-site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof and when entry has been made or patent issued for such town sites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Provided*, That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.

* * * * * * *

Act approved March 3, 1891 (26 Stat., 1101). (See secs. 2386 and 2392, Rev. Stats., *supra*.)

TOWNSITES ON CEDED INDIAN RESERVATIONS.

IN OKLAHOMA.

RESERVATIONS FOR PARKS, SCHOOLS, ETC., AND OKLAHOMA HOMESTEAD COMMUTATIONS FOR TOWNSITES.

* * * * * * *

SEC. 22. That the provisions of Title thirty-two, chapter eight of the Revised Statutes of the United States relating to "reservation and sale of town sites on the public lands" shall apply to the lands open, or to be opened to settlement in the Territory of Oklahoma, except those opened to settlement by the proclamation of the President on the twenty-second day of April, eighteen hundred and eighty-nine: *Provided*, That hereafter all surveys for town sites in said Territory shall contain reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations, to be maintained for such purposes, shall be issued to the towns respectively when organized as municipalities: *Provided further*, That in case any lands in said Territory of Oklahoma, which may be occupied and filed upon as a homestead, under the provisions of law applicable to said Territory, by a person who is entitled to perfect his title thereto under such laws, are required for town-site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat of such proposed town-site, and if such plat shall be approved by

the Secretary of the Interior, he shall issue a patent to such person for land embraced in said town site, upon the payment of the sum of ten dollars per acre for all the lands embraced in such town site, except the lands to be donated and maintained for public purposes as provided in this section. And the sums so received by the Secretary of the Interior shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only.

* * * * * * *

Act approved May 2, 1890 (26 Stat., 91, sec. 22).

HOMESTEADS COMMUTED FOR TOWNSITE PURPOSES IN WICHITA, COMANCHE, KIOWA, AND APACHE LANDS.

* * * * * * *

That that portion of section twenty-two of the Act approved May second, eighteen hundred and ninety, entitled "An Act to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes," providing for the commutation for town-site purposes of homestead entries in certain instances, be, and the same is hereby, made applicable to the lands in the Territory of Oklahoma ceded to the United States by the Wichita and affiliated bands of Indians and the Comanche, Kiowa, and Apache tribes of Indians, under agreements, respectively, ratified by the Acts of Congress of March second, eighteen hundred and ninety-five, and June sixth, nineteen hundred.

Act approved March 11, 1902 (32 Stat., 63).

TOWNSITES VACATED IN COMMUTED HOMESTEADS.

* * * That in all cases where a town site, or an addition to a town site, entered under the provisions of section twenty-two of an Act entitled "An Act to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes," approved May second, eighteen hundred and ninety, shall be vacated in accordance with the laws of the Territory of Oklahoma, and patents for the public reservations in such vacated town site, or addition thereto, have not been issued, it shall be lawful for the Commissioner of the General Land Office, upon an official showing that such town site, or addition thereto, has been vacated, and upon payment of the homestead price for such reservations, to issue a patent for such reservations to the original entryman.

If the original entryman shall fail or neglect to make application for the reservations within six months from the vacation of such town site, or from the passage of this Act, the reservations shall be subject to disposal under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five.

SEC. 2. That if a patent has already issued, or shall hereafter issue, for any such reservation, to any town or municipality, such town or municipality, upon the vacation of the town site or addition

thereto, as aforesaid, may sell the same at public or private sale to the highest bidder after thirty days' public notice of such sale, and convey said lands to the purchaser by proper deed of conveyance, and cover the proceeds of such sale into the school fund of such town or municipality: *Provided*, That where, by reason of the vacation of an entire town site and all its additions, the municipal organization has ceased to exist, the reservations in such vacated town site which may have been patented to the town may be disposed of as isolated tracts under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five.

SEC. 3. That all laws and parts of laws, in so far as they conflict with this Act, are hereby repealed.

Act approved May 11, 1896 (29 Stat., 116).

IN MINNESOTA.

TOWNSITES IN CEDED INDIAN LANDS.

* * * * * * *

That chapter eight, title thirty-two, of the Revised Statutes of the United States, entitled "Reservation and sale of town sites on the public lands," be, and is hereby, extended to and declared to be applicable to ceded Indian lands within the State of Minnesota. This act shall take effect and be in force from and after its passage.

Act approved February 9, 1903 (32 Stat., 820).

IN SOUTH DAKOTA.

TOWNSITES IN ROSEBUD INDIAN LANDS IN TRIPP COUNTY.

* * * * * * *

SEC. 2. That the land shall be disposed of by proclamation, under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation.

* * * * * * *

SEC. 4. That the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause the same to be surveyed into blocks and lots and disposed of under such regulations as he may prescribe, in accordance with section twenty-three hundred and eighty-one of the United States Revised Statutes. The net proceeds derived from the sale of such lands shall be credited to the Indians as hereinafter provided. * * *

Approved March 2, 1907 (34 Stat., 1230 and 1231). See paragraph 9, proclamation of August 24, 1908 (37 L. D., 122).

IN NORTH AND SOUTH DAKOTA.

TOWNSITES IN CHEYENNE RIVER AND STANDING ROCK LANDS.

* * * * * * *

SEC. 2. That the lands shall be disposed of by proclamation under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in such proclamation:

* * * * * * *

SEC. 5. That the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause the same to be surveyed into blocks and lots and disposed of under such regulations as he may prescribe, in accordance with section twenty-three hundred and eighty-one of the United States Revised Statutes. The net proceeds derived from the sale of such lands shall be credited to the Indians as hereinafter provided.

* * * * * * *

Approved May 29, 1908 (35 Stat., 461 and 463).

IN UTAH.

TOWNSITES IN UINTAH LANDS.

* * * * * * *

That the said unallotted lands, excepting such tracts as may have been set aside as national forest reserve, and such mineral lands as were disposed of by the Act of Congress of May twenty-seventh, nineteen hundred and two, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in said proclamation, until after the expiration of sixty days from the time when the same are thereby opened to settlement and entry. * * *

Act approved March 3, 1905 (33 Stat., 1069). See acts approved May 27, 1902 (32 Stat., 263), March 3, 1903 (32 Stat., 998), and April 21, 1904 (33 Stat., 207). Also see proclamations of July 14, 31, and August 14, 1905 (34 Stat., 3122, 3139, and 3143).

IN NEVADA.

TOWNSITES IN WALKER RIVER LANDS.

* * * * * * *

And when such allotments shall have been made, and the consent of the Indians obtained as aforesaid, the President shall, by proclamation, open the land so relinquished to settlement, to be disposed of under existing laws.

* * * * * * *

Act approved May 27, 1902 (32 Stat., 261). See proclamation of September 26, 1906 (34 Stat., 3237).

IN WYOMING.

TOWNSITES IN SHOSHONE OR WIND RIVER LANDS.

* * * * * * *

SEC. 2. That the lands ceded to the United States under the said agreement shall be disposed of under the provisions of the homestead, town-site, coal and mineral land laws of the United States and shall be opened to settlement and entry by proclamation of the President of the United States on June fifteenth, nineteen hundred and six, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, and enter said lands except as prescribed in said proclamation until after the expiration of sixty days from the time when the same are opened to settlement and entry, * * *.

Lands entered under the town-site, coal, and mineral-land laws shall be paid for in amount and manner as provided by said laws.

* * * * * * *

Act approved March 3, 1905 (33 Stat., 1021). See proclamation of June 2, 1906 (34 Stat., 3212).

IN MONTANA.

TOWNSITES IN CROW LANDS.

* * * * * * *

SEC. 5. * * * That the lands not withdrawn for irrigation under said reservation Act, which lands shall be determined under the direction of the Secretary of the Interior at the earliest practical date, shall be disposed of under the homestead, town-site, and mineral-land laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy,

or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: * * *

That the price of said lands shall be four dollars per acre, when entered under the homestead laws, * * *.

Lands entered under the town-site and mineral-land laws shall be paid for in amount and manner as provided by said laws, but in no event at a less price than that fixed herein for such lands, if entered under the homestead laws, * * *.

Act approved April 27, 1904 (33 Stat., 360 and 361). See proclamation of May 24, 1906 (34 Stat., 3204).

TOWNSITES IN FLATHEAD LANDS.

* * * * * * *

SEC. 17. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for townsite purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks not less than forty acres of said land at or near each of the present settlements of Arlee, Dayton, Ravalli, Dixon, and Ronan, and not less than eighty acres at the present settlements of Saint Ignatius and Polson, and at such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will best subserve the present needs and the reasonable prospective growth of said settlements.

Such town sites shall be surveyed, appraised, and disposed of as provided in section twenty-three hundred and eighty-one of the United States Revised Statutes: *Provided*, That any person who, at the date when the appraisers commence their work upon the land, shall be an actual resident upon any one such lot and the owner of substantial and permanent improvements thereon, and who shall maintain his or her residence and improvements on such lot to the date of his or her application to enter, shall be entitled to enter, at any time prior to the day fixed for the public sale and at the appraised value thereof, such lot and any one additional lot of which he or she may also be in possession and upon which he or she may have substantial and permanent improvements: *Provided further*, That before making entry of any such lot or lots the applicant shall make proof, to the satisfaction of the register and receiver of the land district in which the land lies, of such residence, possession, and ownership of improvements, under such regulations as to time, notice, manner, and character of proof as may be prescribed by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior: *Provided further*, That in making their appraisal of the lots so surveyed, it shall be the duty of the appraisers to ascertain the names of the residents upon and occupants of any such lots, the character and extent of the improvements thereon, and the name of the reputed owner thereof, and to report their findings in connection with their report of appraisal, which report of findings shall be taken as prima facie evidence of the facts therein set out. All such lots not so entered prior to the day fixed for the public sale shall be offered at public outcry in their regular order, with the other unimproved and unoccupied lots. That no lot shall

be sold for less than ten dollars: *And provided further*, That said lots, when surveyed, shall approximate fifty by one hundred and fifty feet in size.

Act of June 21, 1906 (34 Stat., 354, amending Acts April 23, 1904, 33 Stat., 302, and March 3, 1905, 33 Stat., 1048).

TOWNSITES IN BLACKFEET AND FORT PECK LANDS.

The paragraph relating to "Town sites" in the Act approved March 1, 1907 (34 Stat., 1039), relative to the townsites of Browning and Babb and such other townsites as may be reserved in the Blackfeet Indian Reservation, and section 14 of the Act approved May 30, 1908 (35 Stat., 563), relative to the townsite of Poplar and such other townsites as may be reserved in the "Fort Peck Indian Reservation," are in substance the same as section 17 in the Flathead Act above quoted, except that the Act concerning townsites in the Fort Peck Reservation grants a preference right of entry to five instead of two lots.

IN WASHINGTON.

TOWNSITES IN COLVILLE LANDS.

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SEC. 11. That nothing contained in this Act shall prohibit the Secretary of the Interior from reserving from said lands, whether surveyed or unsurveyed, such tracts for town-site purposes, as in his opinion may be required for the future public interests, and he may cause any such reservation, or parts thereof, to be surveyed into blocks and lots of suitable size, and to be appraised and disposed of under such regulations as he may prescribe, and the net proceeds derived from the sale of such lands shall be paid to said Indians, as provided in section six of this Act:

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Approved March 22, 1906 (34 Stat., 82).

TOWNSITES IN SPOKANE LANDS.

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SEC. 4. That the Secretary of the Interior * * * is further authorized and directed to reserve and set aside such tracts as he may deem necessary or convenient for town-site purposes, and he may cause any such reservations to be surveyed into lots and blocks of suitable size and to be appraised and disposed of under such regulations as he may prescribe, and the net proceeds derived from the sale of such lands shall be deposited in the Treasury of the United States to the credit of the Indians of the Spokane Reservation.

* * * * * * *

Act approved May 29, 1908 (35 Stat., 459).

IN IDAHO.

TOWNSITES IN COEUR D'ALENE LANDS.

* * * * * * *

That the Secretary of the Interior shall reserve from said lands, whether surveyed or unsurveyed, such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause any such reservations, or parts thereof, to be surveyed into blocks and lots of suitable size, and to be appraised and disposed of under such regulations as he may prescribe, and the net proceeds derived from the sale of such lands shall be paid to said Indians as provided in section seven of this Act:

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Act approved June 21, 1906 (34 Stat., 337).

IN CALIFORNIA AND ARIZONA.

TOWNSITES IN YUMA AND COLORADO RIVER LANDS.

* * * * * * *

There is also appropriated out of any money in the Treasury not otherwise appropriated, the further sum of five thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to reserve and set apart lands for town-site purposes in the Yuma Indian Reservation, California, and the Colorado River Indian Reservation in California and Arizona, and to survey, plat, and sell the tracts so set apart in such manner as he may prescribe, the net proceeds to be deposited in the Treasury of the United States to the credit of the Indians of the reservations, respectively, to be reimbursed out of the funds arising from the sale of the lands.

* * * * * * *

Act approved April 30, 1908 (35 Stat., 77).

TOWNSITES IN RECLAMATION PROJECTS.

* * * That the Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, not exceeding one hundred and sixty acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes.

SEC. 2. That the lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the neces-

sary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund.

SEC. 3. That the public reservations in such town sites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for public purposes.

SEC. 4. That the Secretary of the Interior shall, in accordance with the provisions of the reclamation Act, provide for water rights in amount he may deem necessary for the towns established as herein provided, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken.

SEC. 5. That whenever a development of power is necessary for the irrigation of lands under any project undertaken under the said reclamation Act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privilege as will impair the efficiency of the irrigation project.

Act approved April 16, 1906 (34 Stat., 116).

AMENDMENT TO ABOVE ACT.

* * * * * * *

SEC. 4. * * * Whenever, in the opinion of the Secretary of the Interior, it shall be advisable for the public interest, he may withdraw and dispose of townsites in excess of one hundred and sixty acres under the provisions of the aforesaid Act, approved April sixteenth, nineteen hundred and six, and reclamation funds shall be available for the payment of all expenses incurred in executing the provisions of this Act, and the aforesaid Act of April sixteenth, nineteen hundred and six, and the proceeds of all sales of town-sites shall be covered into the reclamation fund.

* * * * * * *

Act approved June 27, 1906 (34 Stat., 520).

ALIENS MAY ACQUIRE TOWN LOTS IN THE TERRITORIES.

* * * * * * *

SEC. 2. * * * This Act shall not be construed to prevent any persons not citizens of the United States from acquiring or holding lots or parcels of lands in any incorporated or platted city, town, or village, * * * in any of the Territories of the United States.

* * * * * * *

Act approved March 2, 1897 (29 Stat., 618).

PARKS AND CEMETERIES.

That incorporated cities and towns shall have the right, under rules and regulations prescribed by the Secretary of the Interior, to purchase for cemetery and park purposes not exceeding one-quarter section of public lands not reserved for public use, such lands to be within three miles of such cities or towns: *Provided*, That when such city or town is situated within a mining district, the land proposed to be taken under this Act shall be considered as mineral lands, and patent to such land shall not authorize such city or town to extract mineral therefrom, but all such mineral shall be reserved to the United States, and such reservation shall be entered in such patent.

Act approved September 30, 1890 (26 Stat., 502).

CEMETERIES.

That the Secretary of the Interior be, and he is hereby, authorized to sell and convey to any religious or fraternal association, or private corporation, empowered by the laws under which such corporation or association is organized or incorporated to hold real estate for cemetery purposes, not to exceed eighty acres of any unappropriated nonmineral public lands of the United States for cemetery purposes, upon the payment therefor by such corporation or association of the sum of not less than one dollar and twenty-five cents per acre: *Provided*, That title to any land disposed of under the provisions of this Act shall revert to the United States, should the land or any part thereof be sold or cease to be used for the purpose herein provided.

Act approved March 1, 1907 (34 Stat., 1052).

TOWNSITE-REGULATIONS.

COUNTY-SEAT TOWNSITES.

Under section 2286, U. S. Rev. Stats., 160 acres of public land may be entered, at the minimum price therefor, by a county or parish, for the establishment therein of a seat of justice, the proceeds of the sale of a tract so entered to be devoted to the erection of public buildings in the county or parish making the entry.

The application should cite said section of the statute and describe the land applied for by legal subdivisions, and be signed by an officer of the county or parish authorized to do so by an order of the county or parish board, and such application should be filed in the proper local land office, together with the notice of intention to make proof in the form prescribed by Act approved March 3, 1879 (20 Stat., 472).

Proof and payment.—The land must be paid for at the government price per acre after proof has been furnished satisfactorily showing—

First. Six weeks' publication and posting of notice of making proof as in homestead and other cases.

Second. The official character of the officer filing the application and the properly certified record proof of his authority therefor.

Third. The due establishment, under the laws of the State or Territory, of the seat of justice for the county upon the land applied for, and also a reference to the law creating such county.

Fourth. That the land applied for is unappropriated public land.

The corporate name of the county must be inserted in the granting clause of the certificate of entry.

TOWNSITES RESERVED BY PRESIDENT.

Under section 2380, U. S. Rev. Stats., public land may be reserved by the President for townsite purposes on his own motion, or petitions may be addressed to him therefor, setting forth facts warranting his action under said section, duly verified by the affidavit of one or more persons, such petitions to be filed with the President, the Department, or this office, or with the local officers for transmission to this office.

Survey and appraisal.—Townsites reserved under section 2380, or under any other law directing their disposition under section 2381, will be surveyed, when ordered by the Department, under the supervision of this office, into urban, or urban and suburban, lots and blocks, and thereafter the lots and blocks will be appraised by such

disinterested person or persons as may be appointed by the Secretary of the Interior. Each appraiser must take his oath of office and transmit the same to this office before proceeding with his work. This office must be notified by wire of the time when such appraiser or appraisers enter on duty. They will examine each lot to be appraised and determine the fair and just cash value thereof. Improvements on such lots, if any, must not be considered in fixing such value. Lots or blocks reserved for public purposes will not be appraised.

The schedule of appraisement must be prepared in duplicate on forms furnished by this office, and the certificates at the end thereof must be signed by each appraiser, and on being so completed they must be immediately transmitted to this office, and when approved by the Secretary of the Interior one copy will be sent to the local officers.

Notices of sale will be published for thirty days (unless a shorter time be fixed in a special case) by advertisement in such newspapers as the Department may select and by posting a copy of the notice in a conspicuous place in the register's office.

How sold.—Beginning on the day fixed in the notice and continuing thereafter from day to day (Sundays and legal holidays excepted) as long as may be necessary, each appraised lot will be offered for sale at public outcry to the highest bidder for cash, at not less than its appraised value.

Qualifications and restrictions.—No restriction is made as to the number of lots one person may purchase. Bids and payments may be made through agents, but not by mail or at any time or place other than that fixed in the notice of sale.

Combinations in restraint of the sale are forbidden by section 2373 of the Revised Statutes of the United States, which reads as follows:

> Every person who, before or at the time of the public sale of any of the lands of the United States, bargains, contracts, or agrees, or attempts to bargain, contract, or agree with any other person, that the last-named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof, or who by intimidation, combination, or unfair management, hinders or prevents, or attempts to hinder or prevent any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars, or imprisoned not more than two years, or both.

Suspension or postponement of the sale may be made for the time being, to a further day, or indefinitely, in case of any combination which effectually suppresses competition or prevents the sale of any lot at its reasonable value, or in case of any disturbance which interrupts the orderly progress of the sale.

Payments and forfeitures.—If any bidder to whom a lot has been awarded fails to make the required payment therefor to the receiver, before the close of the office on the day the bid was accepted, the right thereafter to make such payment will be deemed forfeited, and the lot will be again offered for sale on the following day, or if the sale has been closed, then such lot will be considered as offered and unsold, and all bids thereafter by the defaulting bidder may, in the discretion of the local officers, be rejected.

Lots offered and unsold.—Each lot offered and remaining unsold at the close of the sale will thereafter be and remain subject to private sale and entry, for cash, at the appraised value of such lot.

Certificates.—All lots purchased at the same time, in the same manner, in the same townsite, and by the same person should be included in one certificate, in order to prevent unnecessary multiplicity of patents. Lots sold at private sale should be accompanied by an application therefor, signed by the applicant. Certificates will be issued upon payment of the purchase price, as in other cases.

Townsites Platted by Occupants.

Title to lots and blocks in an established town on public land may be acquired under sections 2382 to 2386, inclusive, U. S. Rev. Stats.

Survey and plat.—The occupants, at their own expense, must cause a survey of the land into lots, blocks, streets and alleys to be made, and the plat and field notes thereof to be filed with the recorder of the county in which the land is situated. The plat must show (1) that the land does not include an area in excess of 640 acres, unless the lots, buildings, and improvements cover a greater area, and then only to the extent so occupied and improved; (2) that the boundaries of the land are correctly shown and described thereon according to the lines of the public surveys, or if not so surveyed, then that the exterior lines of the townsite survey are tied to a designated, permanent, and thoroughly identified monument; (3) that the streets, squares, blocks, lots, and alleys, the dimensions of the same, with measurements, courses, and area of each municipal subdivision, and the name of the town are correctly delineated thereon; and (4) the exterior lines of all existing railroad rights of way and station grounds. The lots should not exceed 4,200 square feet, except in cases where the configuration necessitates a different area. The above required facts should be verified by the oath of the surveyor entered upon the margin of the plat.

A statement of the extent and general character of the improvements on the land must be filed with the plat and field notes, and such plat and statement must be verified by the oath of the party acting for and in behalf of the occupants of the land.

Transcript of plat and statement.—Within one month after filing such plat, field notes, and statement, a transcript thereof in duplicate, each duly verified by the certificate of the county recorder, and accompanied by the testimony of two witnesses that such town has been established in good faith, and showing the number of inhabitants thereof, and when it was so established, shall be filed with the register and receiver of the land office in which the townsite is located, who will immediately transmit the same to this office for consideration, and upon the approval thereof one of said duplicate plats and statements will be returned to the local officers for their files.

Notice of filing plat.—On filing such plat and statement the register and receiver will prepare and conspicuously post in their office a notice to the effect that the official plat of such town site has been filed in their office, and that they are ready to receive applications by lot occupants to make proof for and purchase the lots occupied by them, respectively. The newspapers in the vicinity should be given copies of the notice as an item of news, and such other publicity should be given it as can be done without expense.

Adjustment to lines of public survey.—When the townsite is upon land over which the township surveys have not been extended, the surveyor-general will be notified of the townsite survey and be furnished by this office with an outline plat showing the exterior lines thereof, with courses and distances, the date of the survey and the approval thereof, and thereafter when the township surveys have been extended over the land the exterior lines of the townsite may be adjusted thereto where it can be done without impairing vested rights.

Department may make townsite survey.—Refusal or failure to file such transcript, plat, field notes, and statement, with the testimony, as above required, within twelve months from the establishment of a town on the public domain, will authorize the Secretary of the Interior to cause a survey and plat to be made thereof, the lots in which shall be disposed of at an increase of fifty per centum on the minimum price.

The minimum price for all lots of 4,200 square feet or less is $10 per lot, except in cases where the Secretary of the Interior causes the survey into lots and blocks to be made by the Government, in which case the minimum price is $15 per lot for such lots. The minimum price for all lots in excess of 4,200 square feet will be computed by adding to said minimum price of $10 or $15, as the case may be, the sum of $4 for each additional 1,000 square feet or fractional part thereof in excess of 4,200 square feet.

A preemption right of purchase at the minimum price, at any time before the day fixed for the public sale, of not exceeding two lots, is accorded an actual resident, to secure which he must file in the local office his application therefor, and therein state the date of settlement, the value and character of his improvements thereon, that he is 21 years of age or over or the head of a family, and that he is a citizen of the United States or has declared his intention to become such. The notice of intention to make proof must be filed and the notice for publication must be issued, published, and posted at the applicant's expense as in ordinary cases and in manner and form and for the time as provided in the act of March 3, 1879 (20 Stat., 472).

Preemption proof may be made before the register and receiver, or any officer duly authorized by law, and must show by record or documentary evidence where such evidence is usually required, and where not so required by the testimony of witnesses, (1) due publication of the register's notice; (2) the claimant's age; (3) his citizenship; and (4) his actual residence upon one lot and substantial improvements on the second lot, if two lots be included in the application. The proof must embrace the testimony of the applicant and of at least two of his advertised witnesses. The purchase price for the lot or lots must be paid to the receiver when the proof is made. Entry of public lands under other laws, or in other townsites, or ownership of more than 320 acres, will not disqualify an applicant from making such entry. No entry can be made of an improved lot on which the claimant does not reside unless his residence lot is included in the same or a previous entry.

Hearings will be ordered and conducted in accordance with the Rules of Practice where two or more adverse applications are filed for the same lot, or where a sufficient contest affidavit is filed against an application, on or before the day fixed for making proof, but no purchase money will be collected from the applicants until the final determination of the case, whereupon the successful applicant will be

required to pay the purchase price within thirty days from notice thereof.

Mineral surveys, locations, applications, and entries covering lots in such townsites will not prevent the entry of such lots hereunder and the issuance of patent thereon, but such mineral claims, if held under prior and valid mineral rights, are amply protected by the law from prejudice by the allowance of such town-lot entries and patents, and paramount patents may be issued thereafter to such mineral claimants.

Mineral patents.—Lots *wholly* covered by outstanding mineral patents are not subject to entry under the townsite law, and applications therefor will be rejected. Lots *partly* covered by mineral patents may be entered at the price fixed for the whole lot, but the certificate and receipt must contain at the end of the description an exception clause as follows: "Excepting and excluding the portion of said lot (or lots) embraced in mineral patent (or patents) heretofore issued."

Millsites.—The continued use and occupation within a townsite of a duly located millsite claim under section 2337, U. S. Rev. Stats., from a time prior to a settlement and occupation thereon for townsite purposes, will defeat the rights of the claimant under the townsite laws to any part of the land within such millsite.

Railroad rights of way and station grounds, when approved by the department, are subject to all valid rights existing at the date of filing the application for such rights of way or station grounds.

Forfeiture of preemption right.—All right to preempt and purchase occupied and improved lots for which no entry has been allowed prior to or on the date fixed for the public sale will be forfeited unless a contest be pending thereon as hereinbefore provided, and such lots will be offered for sale together with the unoccupied lots. When notified of the date fixed for the public sale, the register and receiver will refuse to receive or consider any such application for entry where due publication could not be had and proof made thereon prior to the date so fixed for the public sale.

Public sale.—The notice of public sale will be prepared and published in the form and manner herein provided for the sale of town lots under section 2381, U. S. Rev. Stats., and the sale will be conducted in the same manner and subject to the same restrictions, except that no lot shall be sold for less than the minimum price herein fixed therefor, and such lots as may not be so disposed of shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution as the Secretary of the Interior may order from time to time after at least three months' notice. Certificates and applications for private entry must be issued and filed in manner and form as provided in the regulations under said section 2381.

Townsites Entered by Corporate Authorities or Judges of County Courts as Trustees.

Segregation by townsite settlement.—Public lands settled upon and occupied as a townsite are thereby segregated from entry under the agricultural land laws, and may be entered under sections 2387 to 2389, subject to the restrictions contained in sections 2386 and 2391 to 2393, inclusive, U. S. Rev. Stats.

Entries, by whom made.—If the town is incorporated the entry must be made by the corporate authorities or by the mayor or other principal officer authorized so to do by resolution or ordinance of the town board or city council. If the town is not incorporated, the entry must be made by the judge of the county court upon petition addressed to him therefor, signed by such number of actual occupants of lots therein as may be required by the laws of the State or Territory in which the town is situated. Private individuals, organizations, or corporations are not authorized to make such entries.

A double trust.—The entry must be made in trust (1), as to the occupied lots, for the several use and benefit of the occupants thereof according to their respective interests, and (2) as to the unoccupied lots, for the use and benefit of the municipality, the public, or the occupants collectively as a community. Such entries can not be made for the benefit of one individual, or organization, or corporation, but only for the benefit of the actual inhabitants and occupants of an established town. Prospective townsites can not be so entered.

The execution of the trust as to the disposal of the lots and the proceeds of sales is to be conducted under regulations prescribed by the state or territorial laws. Acts of trustees not in accordance with such regulations are void.

The amount of land that may be entered under this act is proportionate to the number of inhabitants. One hundred and less than two hundred inhabitants may enter not to exceed 320 acres; two hundred and less than one thousand inhabitants may enter not to exceed 640 acres; and where the inhabitants number one thousand and over an amount not to exceed 1,280 acres may be entered; and for each additional one thousand inhabitants, not to exceed five thousand in all, a further amount of 320 acres may be allowed. When the number of inhabitants of a town is less than one hundred the townsite shall be restricted to the land actually occupied for town purposes, by legal subdivisions.

Unsurveyed public land upon which a town has been established may be entered hereunder. In such case a special survey should be procured by application to the surveyor-general therefor, the cost of which survey will be paid out of the general appropriations for public surveys. When the plat of such survey is filed in the local office, application may be made to enter the land described therein.

Declaratory statements may be filed as the initiatory step for the entry of the land in all cases where the occupants are not ready to apply for entry, and should be so filed in order to protect their rights. The statement should be signed and filed by the officer entitled to make entry under the law, and should show the number of inhabitants, that the land is occupied for trade, business, and other townsite purposes, and the date when first so occupied, and declare the purpose of the occupants to enter it under the townsite laws. It should include only such lands as the town is entitled to enter by government subdivisions where surveyed, and if not surveyed the land should be described so it may be easily identified.

Proof.—The notice of intention to make proof must be filed and the notice for publication must be issued, published, and posted at the applicant's expense as in ordinary cases, and in manner and form and for the time provided in the act of March 3, 1879 (20 Stat., 472). The proof may be made before the register and receiver or any

officer duly authorized by law, and must show, by record or documentary evidence, where such evidence is usually required, and where not so required, by the testimony of at least two of the advertised witnesses, (1) due publication of the register's notice; (2) if an incorporated town, proof of incorporation, which should be a certified copy of the order of incorporation, or if by legislative enactment, a citation to such act; (3) certified record evidence of the election, qualification, and the authority of the officer making entry; (4) the number of townsite occupants and claimants on each occupied government subdivision; (5) the number of inhabitants in the townsite; (6) the character, extent, and value of townsite improvements located on each government subdivision; and (7) the date when the land was first used for townsite purposes.

Restrictions.—First. Area.—Entry can not be made hereunder of a greater quantity of land than 2,560 acres, unless the excess in area is actually settled upon, inhabited, improved, and used for business and municipal purposes.

Second. Unpatented mineral claims.—Under said sections 2386, 2392, and section 16 of the act of March 3, 1891 (26 Stat., 1101), the title to lands acquired hereunder will be subject to all valid prior rights to *unpatented* mining claims or possessions held under existing law, and paramount patents may be issued thereafter to such mineral claimants, notwithstanding the prior townsite patent.

Third. Patented mineral claims.—All lands covered by patented mineral claims must be omitted from townsite entries hereunder. Government subdivisions of land, made fractional by the omission of such patented claims, will be designated by lot numbers on a segregation diagram prepared by the surveyor-general.

Fourth. Reservations for the use of the United States Government are not subject to entry hereunder.

Fifth. Millsites.—The continued use and occupation within a townsite of a duly located millsite claim under section 2337, U. S. Rev. Stats., from a time prior to a settlement and occupation thereof for townsite purposes, will defeat the rights of the claimant under the townsite laws to any part of the land within such millsite.

Sixth. Railroad rights of way and station grounds, when approved by the Department, are subject to all valid rights existing at the date of filing the application for such rights of way or station grounds.

Change of method of entry.—Where proceedings have been had for the entry of lots under sections 2382 to 2386, inclusive, U. S. Rev. Stats., but no patent has issued thereunder, the occupants may avail themselves, if the town authorities choose to do so, of the provisions of said sections 2387 to 2389 and make proof and entry thereunder: Provided, however, that in addition to the minimum price for the land applied for there shall be paid, before patent issues therefor, by the parties applying for such change of entry, all costs of surveying and platting such townsite and expenses incident thereto incurred by the Government under the provisions of said sections 2382 to 2386. On application to this office the applicants will be informed of the amount of said expense to be paid in excess of the purchase price of the land in order to effectuate such change of entry.

Additional entries.—Where townsite entry has been or may hereafter be made, under the provisions of said sections 2387 to 2393,

additional entries may be made, under the provisions of section 4 of the act approved March 3, 1877 (19 Stat., 392), of such contiguous tracts as may be occupied for townsite purposes, but such additional entry shall not, together with all prior entries made for such townsite, be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section 2389: Provided, however, that such area shall not exceed 2,560 acres. Such additional entries will be made in the same manner and under the same regulations as are herein provided for entries under said sections 2387 to 2393, inclusive.

Entry and payment.—When townsite proof has been submitted hereunder the register and receiver will, if they approve the same, forward it to this office with their recommendation thereon, without collecting the purchase money and without issuing the final papers. If the proof submitted to this office is found satisfactory the local officers will be notified thereof, and if no objections exist in their office they will notify the applicant thereof, and on payment of the minimum price fixed by the law for the purchase of the land they will issue the final papers. (See Circular of January 6, 1904, 32 L. D., 481.)

Townsites on Mineral Lands.

In view of the numerous inquiries touching the rights of claimants for mineral lands situated within townsites, as opposed to rights which may be acquired to such lands under the townsite laws, it is deemed appropriate to herein recite the principal rules applicable to the subject, so far as they seem clear from the law itself or are indicated by the trend of adjudicated cases.

The general townsite laws, comprised in secs. 2380 to 2394, U. S. Rev. Stats., authorize the entry of townsites, or the sale of lots therein, upon public lands which may include unpatented mineral claims, but the rights of mineral claimants upon any land entered or sold under said townsite laws are expressly protected by secs. 2386 and 2392. These two sections recognize the superior rights, as against any townsite claimant—whether corporate, community, or individual—of all claimants for mineral veins possessed agreeably to local custom, or for any valid mining claim or possession held under existing law. The precedence and superiority so accorded to mineral claims, however, depend in final analysis upon the question of fact whether, at date of townsite entry or lot sale, the lands claimed under the mining laws were "known to contain minerals of such extent and value as to justify expenditures for the purpose of extracting them" (31 L. D., 87). Where an affirmative showing in such behalf is made in due course by the mineral claimant, his right to a patent for the land (subject to the distinction hereinafter noted as to incorporated towns) will not be prejudiced by any previous townsite entry, deed, or patent covering the same land (26 L. D., 144; 29 L. D., 426; 32 L. D., 211; 34 L. D., 276 and 596).

Under said general townsite laws, as construed by the Department and the courts, an entry including unpatented mineral lands may be made for an incorporated town as well as for an unincorporated town, the law requiring that in the former case the entry shall be

made by the corporate authorities, and in the latter by the county judge (34 L. D., 24). While such general right of entry by or for incorporated towns and cities is therefore independent of anything contained in sec. 16 of the act of March 3, 1891 (26 Stats., 1095), it will be seen that that section in terms announces the right to enter mineral lands. The protection afforded to mineral claims by the body of sec. 16 is similar to that given generally in said secs. 2386 and 2392, Rev. Stats., but the proviso to sec. 16 is as follows:

Provided, That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.

This Department has never viewed said proviso as warranting, under any circumstances, the allowance of entry for a mineral vein independently of "the surface ground appertaining thereto," nor is such an entry provided for in the general mining laws. But said proviso creates one distinction between unincorporated and incorporated towns as regards the relative rights of townsite occupants and mineral claimants, which is, that whereas the townsite patent will, in either case, carry absolute title to any mineral not known to exist at the date of townsite entry, the adverse rights of mineral and town-lot claimants within incorporated towns are hinged upon priority of initiation. That is to say, that after entry is made for such town, no entry by a mineral-vein applicant will be allowed for any land owned and occupied under the townsite law by a party whose possession antedated the inception of the mineral applicant's claim, even though such land was known, at date of the townsite entry, to contain valuable minerals.

Subject to the distinction above noted, the foregoing principles apply to all mineral claims within townsites entered or disposed of under any of the laws above mentioned, and also to mineral claims within townsites disposable under special acts containing no reference to the rights of mining claimants.

The law does not require that townsite entries shall exclude any mineral claim or possession except such as may have been patented (29 L. D., 21). Mineral claims which have not been patented may be excluded from a townsite entry at the option of the townsite applicant, who must, in that event, furnish satisfactory proof that the exclusion covers a "valid mining claim or possession held under existing law" (33 L. D., 542). The exclusion of a millsite claim from a townsite entry is necessary only in cases where the millsite claimant shall have been in occupation of the ground, under regular location, from a time antedating its occupation for townsite purposes. The issue of priority in such cases may be raised by the townsite applicant, the millsite claimant, or the Government.

Townsites on Ceded Indian Reservations.

IN OKLAHOMA.

How entered.—Under section 22 of the act approved May 2, 1890 (26 Stat., 91), townsite entries may be made in the same manner, under the same regulations, and for the same purchase price herein provided for entries under sections 2380 and 2381, 2382 to 2386, or

2387 to 2394, U. S. Rev. Stats., except that the following additional proof is required:

Public reserves.—Triplicate plats of the survey of the townsite into lots and blocks must be made and filed with the local officers at the time of submitting proof, showing the reservation of not less than ten nor more than twenty acres for park, school, and other public purposes. Such plats shall be made on tracing linen and on a scale of 100 feet to 1 inch, and be provided with a margin sufficient to contain the verifications of the surveyor and the applicant acting for the town and the approval thereof by the proper officer of the Land Department. The name of the townsite must be stated on the plats, and they must contain a description of the land and the exterior boundaries thereof, according to the lines of the public surveys, and must exhibit the streets, squares, blocks, lots, and alleys, the courses and distances of the exterior lines of the squares, the width and courses of the streets and alleys, the size of the regular lots and blocks, and if a lot or block is irregular in shape the dimensions and courses of the lines of each should be indicated, so the area thereof may be readily computed, and the area of each reserve and the particular public purpose for which the reserve is made must be designated thereon. The exterior lines of all existing railroad rights of way and station grounds should also be delineated on the plat. Whenever an entry is made adjacent to a town already in existence, the streets must conform to the streets already established, and this must be stated in the affidavit of the surveyor upon the margin of each plat, which affidavit must also contain a statement showing the correctness of the survey and plats of the land, describing it, and giving the aggregate area of the tracts reserved for public purposes. The affidavit of the applicant upon the margin of each plat shall contain the statement that the application for the described tract of land as the townsite of —— is made under the provisions of section 22 of the act of May 2, 1890 (26 Stat., 91); that all streets, alleys, parks, and reservations are dedicated to public use and benefit; and that the plat is correct according to the survey made by the proper surveyor. Upon the receipt of such proof and plat by this office, if found to be satisfactory, the plats will be approved by the commissioner, and two of them will be returned to the local officers, one to be retained in their files and one to be given to the applicant for filing with the recorder of the proper county, and the local officers will be directed to take such further action as may be prescribed by the law and regulations under which the application is made.

Homestead commutations for townsites.—Applications to commute homestead entries, or portions thereof, for townsite purposes under the provisions of the second proviso of section 22 of the act approved May 2, 1890 (26 Stat., 91), will be addressed to the Secretary of the Interior and be filed in the district land office. The application may be on Form 4–001, and may be made for the commutation of the whole or a part of the homestead entry, but must be by full legal subdivisions, and any application for less than a full legal subdivision or for land involved in any contest will not be recognized.

Proof.—Notice of intention to make proof and the notice for publication shall be the same in all respects as that required of a claimant in making final homestead proof, with the addition that it shall state that said proof will be made under section 22 of the act

of May 2, 1890: Proof by the claimant and two of his advertised witnesses must be furnished showing—

First. Due publication of notice as in ordinary cases.

Second. That the land is required for townsite purposes.

Third. Due compliance by the entryman with the provisions of the law and of the President's proclamation under which settlement on the land became permissible.

Fourth. The claimant's citizenship and qualifications in all other respects as a homesteader, the same as in making final homestead or commutation proof.

Fifth. Due compliance by the claimant with all the requirements of the homestead law up to the date of submitting proof.

Plats.—At the time of submitting proof the entryman shall file therewith triplicate plats of the survey of the land into lots, blocks, streets, and alleys, in the same form and manner, and containing reservations of not less than ten nor more than twenty acres, as required by the regulations herein for the entry of townsites under said section 22, the same to be duly verified by himself and the surveyor as in said regulations required, except that his oath shall show that his application is made under the provisions of the second proviso of said section 22.

Purchase price.—At the time of submitting the proof and plats, except as hereinafter provided, the claimant shall tender to the receiver a draft on New York, made payable to the order of the Secretary of the Interior, for the purchase price of the land, exclusive of the portions reserved for public purposes, at the rate of ten dollars per acre. The register and receiver will thereupon transmit the application, proof, and plats to this office with their joint report as to the status of the land, and at the same time they will transmit the draft to the Secretary of the Interior, making reference in each letter to the other.

Approval.—If the proof and plats are found by this office to be in accordance with these regulations and sufficient in form and substance, they will be forwarded to the Secretary of the Interior with recommendation that they be approved. Should they be so approved and the receipt of the purchase price of the land be acknowledged by the Secretary, one of the plats will be retained in this office and the other two will be returned to the district land officers, one to be retained by them and the other delivered to the applicant to be by him filed in the office of the recorder of deeds of the proper county, and the register will be directed to issue his certificate for the land embraced in said plats, excepting and excluding therefrom the tracts reserved for public purposes as designated on said plats. Receipt of the purchase money having been acknowledged by the Secretary of the Interior, no receipt will be issued by the receiver.

Notation on records.—On the issuance of the certificate of entry the register and receiver will note on their records the commutation of the applicant's homestead entry, in whole or in part, as the case may be. When patent is ready for delivery the entryman will be required, before the patent shall be delivered, to surrender his duplicate homestead receipt for transmittal to this office, if the entire homestead entry is commuted, or to have the commuted entry noted thereon and the same then returned to him, if commuted only in part.

Contests or protests.—Where an affidavit of contest or protest against the allowance of an application hereunder is filed at the time of submitting proof, or prior thereto, containing sufficient allegations, made and corroborated under oath to warrant a hearing, and the further allegation that the same is not initiated for the purpose of harassing the claimant and extorting money from him under a compromise, but in good faith to prosecute the same to a final determination, the register and receiver will take appropriate action thereon in accordance with the Rules of Practice. The local officers will not require tender of the purchase price of the land until the final determination of the case favorable to the application to purchase, and when so advised they must require the applicant to immediately tender a New York draft for such purchase price, made payable to the Secretary of the Interior, and on receipt thereof they will transmit it to the Secretary and advise this office thereof. Contest or protest affidavits filed after transmittal of proof will not be considered by the register and receiver, but will be immediately transmitted to this office. Appeals lie from the decisions of the register and receiver to this office, and from the decision of this office to the Secretary of the Interior, as in other cases, and all procedure thereon will be governed by the Rules of Practice.

Disposition of proceeds.—The moneys derived from the commutation of homestead entries for townsite purposes will be paid over to the proper authorities of the municipalities when organized, upon the receipt of the following required proof:

First. A duly certified copy, under seal of the order of the board of county commissioners, declaring that the specified territory shall, with the assent of the qualified voters, be an incorporated town; also the notice for a meeting of the electors, as required by paragraph 5 of article 1, chapter 16, of the statutes of Oklahoma.

Second. A like certified copy of the statement of the inspectors filed with the board of county commissioners, also a like certified copy of the order of said board, declaring that the town has been incorporated, as provided by paragraph 9 of said article 1.

Third. A like certified copy of the statement of the inspectors, filed with the county clerk, declaring who were elected to the office of trustees, clerk, marshal, assessor, treasurer, and justice of the peace, as provided by paragraph 16 of said article 1.

Fourth. A like certified copy, by the town clerk, of the proceedings of the board of trustees electing one of their number president; also a copy of the qualifications to act, by each of the officers mentioned, as provided by paragraph 19 of said article 1.

Fifth. A certified copy by the town clerk, of the proceedings of the board of trustees, designating some officer of the municipality to make application for and to receive the money to be paid by the Secretary of the Interior.

Sixth. A proper application for the money by said designated officer.

Said application shall be addressed to the Secretary of the Interior and may either be filed in the district land office for transmittal to this office or forwarded by the municipal authorities direct to this office. When the same is received by this office, if the application and accompanying evidence are in accordance with the requirements herein mentioned, it will be transmitted to the Secretary of the Interior and when

approved by him the money will be paid over to the designated officer to be used by the municipality for school purposes only as required.

Public reserves, how entered.—Applications for patents to the tracts reserved for public purposes, in all towns in Oklahoma created under said section 22 or under any other act where tracts have been reserved for such purposes under said section 22, may be filed on behalf of the municipalities whose corporate limits cover the land in which such reservations are situated. The application should be made by the mayor or other proper municipal officer, and describe the reservations to be patented according to the approved plats of said townsite, and the same should be accompanied with the proof of the municipal organization of the town similar to that above provided for the disposition of the proceeds derived from the commutation of homestead entries for townsite purposes under said section 22, and proof must also be filed therewith of the authority of the officer filing the application to make the same with the proper record evidence of his election and qualification as such officer. The application and proof must be filed in the district land office, and if the officers thereof find the same sufficient under these regulations the register will issue the certificate of entry in the form provided therefor.

Reservations in vacated townsites.—Under the act approved May 11, 1896 (29 Stat., 116), where a townsite or an addition to a townsite, in a homestead commuted to a townsite entry under the second proviso of section 22 of the act approved May 2, 1890 (26 Stat., 91), has been vacated under the laws of Oklahoma, and patents for the public reservations therein have not been issued, such reservations will be disposed of in the following manner:

First. Application and proof by the original entryman.—Application for a patent to such reservations may be filed by the original entryman within six months from the vacation of the townsite, and proof must be filed by him, with the register and receiver, of the due vacation of such townsite in accordance with the requirements of the laws of Oklahoma, which proof must consist of a copy of the record evidence of such vacation duly certified. Such proof must also be accompanied with evidence that the corporate authorities of the municipality, if one be organized, in which the reservations were situated prior to such vacation, have been personally served thirty days prior to making such proof with notice of the application and of the date the proof will be made. If the proof be found sufficient the entry will be allowed for the reservations as described in the townsite plat upon receipt of the payment of the homestead price. If the municipality is represented at the time of making proof, it may be heard in opposition to the application and decision be rendered thereon subject to appeal as in other cases.

Second. Reservations disposed of as isolated tracts.—In case of the failure of the original entryman to apply for patent to such reservations within six months from the vacation of such townsite, or in case such reserves have been patented to the municipality and it has ceased to exist by reason of such vacation, the reservations will be disposed of as isolated tracts under the provisions of section 2455, U. S. Rev. Stats., and the acts amendatory thereof, and the regulations issued thereunder.

Third. Reservations may be sold by an existing municipal corporation, upon the vacation of the townsite, where patent has been issued

to such municipality therefor, the proceeds of such sale to be covered into the school fund of such corporation. See case of City of Enid (30 L. D., 352).

IN MINNESOTA.

Townsites in ceded Indian lands under the act approved February 9, 1903 (32 Stat., 820), will be disposed of in accordance with the regulations herein provided for townsites created under sections 2380 and 2381, 2382 to 2386, or 2387 to 2393, U. S. Rev. Stats.

IN SOUTH DAKOTA.

Townsites in Rosebud ceded Indian lands in Tripp County, under the act approved March 2, 1907 (34 Stat., 1230 and 1231), will be disposed of in accordance with the regulations herein provided for the disposal of townsites under section 2381, U. S. Rev. Stats.

IN NORTH AND SOUTH DAKOTA.

Townsites in Cheyenne River and Standing Rock Indian lands, under the act approved May 29, 1908 (35 Stat., 461 and 463), will be disposed of in accordance with the regulations herein provided for the disposal of townsites under section 2381, U. S. Rev. Stats.

IN UTAH.

Townsites in the Uintah Indian lands, under act approved March 3, 1905 (33 Stat., 1069), will be disposed of in accordance with the regulations herein provided for townsites created under sections 2380 and 2381, 2382 to 2386, or 2387 to 2393, U. S. Rev. Stats.

IN NEVADA.

Townsites in the Walker River Indian lands, under act approved May 27, 1902 (32 Stat., 261), will be disposed of in accordance with the regulations herein provided for townsites created under sections 2380 and 2381, 2382 to 2386, or 2387 to 2393, U. S. Rev. Stats.

IN WYOMING.

Townsites in Shoshone or Wind River Indian lands, under act approved March 3, 1905 (33 Stat., 1021), will be disposed of in accordance with the regulations herein provided for townsites created under sections 2380 and 2381, 2382 to 2386, or 2387 to 2393, U. S. Rev. Stats.

Townsites in Crow Indian lands, under act approved April 27, 1904 (33 Stat., 360 and 361), will be disposed of in accordance with the regulations herein provided for townsites created under sections 2380 and 2381, 2382 to 2386, or 2387 to 2393, U. S. Rev. Stats.

Townsites in Flathead Indian lands—Survey and appraisal.—Under the act approved June 21, 1906 (34 Stat., 354), townsites may be selected and reserved by the Secretary of the Interior, and thereafter they will be surveyed and platted into lots, blocks, streets, and alleys, and the lots appraised in accordance with the regulations in this circular provided for townsites surveyed, platted, and appraised under section 2381, U. S. Rev. Stats., but the appraisers shall, in addition to the work in such regulations required, also ascertain the names of the residents upon, and occupants of, any lots in such townsite, the character and extent of the improvements on such lots, and the name of the reputed owner thereof, and they shall report their findings thereon in connection with their report of appraisals, which report of findings shall be taken as *prima facie* evidence of the facts therein set out.

Filing of plat and appraisement.—When the plat and appraisement lists are approved, the same will be sent to the register and receiver for filing, and immediately on receipt thereof they will prepare a notice to the effect that such plat and list have been filed with them, stating the date thereof, and that they are ready to receive applications to make proof and entry for improved lots by persons claiming a preference right to enter the same at the appraised price, which applications and the proof thereon must be filed and made in time to secure entry prior to the date fixed for the public sale. Such notice will be given publicity by posting a copy thereof in a conspicuous place in the register's office, by giving copies thereof to the local newspapers as an item of news, by transmitting copies thereof to the postmaster in each townsite in which there is a post-office, and where there is none, then to the postmaster nearest the land, with a request that he post the same in a conspicuous place in his office, and by giving such further publicity thereto as may be done without incurring expense.

Preference right, application, and proof.—A preference right of entry, at the appraised price, of not exceeding two lots, is accorded an actual resident, to secure which entry the claimant must file in the district land office, in time to make proof and secure entry thereof prior to the date of public sale, an application therefor, showing that at the date the appraisers commenced their work upon the land the claimant was an actual resident upon one of the lots applied for, and the owner of substantial and permanent improvements thereon, and also the owner at said date of substantial and permanent improvements upon the other lot, if two are applied for, and that such residence and improvements have been maintained thereon to date of filing the application. A notice of intention to make proof must be filed and the notice for publication must be issued, published, and posted at the applicant's expense, as in ordinary cases, and in manner and form and for the time provided in the act approved March 3, 1879 (20 Stat., 472).

The proof may be made before the register and receiver or any officer duly authorized by law, and must show, by record or documentary evidence where such evidence is usually required, and where not so required, by the testimony of witnesses, (1) due publication of the register's notice; (2) the applicant's possession of and actual residence upon one of the lots applied for and his or her ownership of substantial and permanent improvements thereon at the date the appraisers commenced their work upon the land; (3) his or her possession and ownership of substantial and permanent improvements upon the other lot at the date the appraisers commence their work upon the land, if two lots are applied for; (4) the maintenance of such residence, possession, and improvements to date of filing the application; and (5) applicant's age; and if a minor or a married woman, whether he or she lives separate and apart from his or her parents and husband. The proof must embrace the testimony of the applicant and of at least two of his advertised witnesses. The appraised purchase price of each lot must be paid to the receiver at the time of submitting proof, except as hereinafter provided, and if the proof is found sufficient entry will be issued thereon.

Forfeiture, qualification, and restrictions.—All preference right of entry of improved or occupied lots, unentered on the day fixed for the public sale, will be forfeited, unless a contest be pending thereon as hereinafter provided, and such lots will be offered at public outcry in their regular order with the other unimproved and unoccupied lots. When notified of the date fixed for the public sale, the register and receiver will refuse to receive or consider any such application for entry where due publication could not be had and proof made thereon prior to the date so fixed for the public sale. Entry of public land under other laws, or in other townsites, or ownership of more than 320 acres will not disqualify an applicant. No entry can be made of an improved lot on which the claimant does not reside, unless his or her residence lot is included in the same or a previous entry.

Contests.—Hearings will be allowed and conducted in accordance with the Rules of Practice where two or more adverse applications are filed for the same lot, or where a sufficient contest or protest affidavit is filed against an application on or before the day fixed for making proof, but no purchase money will be collected from the applicants until the final determination of the case, whereupon the successful applicant will be required to pay the purchase price within thirty days from notice thereof.

Public sale.—The notice of public sale will be prepared and published in the form and manner herein provided for the sale of town lots under section 2381, U. S. Rev. Stats., and the sale will be conducted in the same manner and be subject to the same restrictions, and the certificates and applications for private entry must also be issued and filed in manner and form as provided in the regulations under said section 2381.

Townsites in Blackfeet and Fort Peck Indian lands.—That portion of the act approved March 1, 1907 (34 Stat., 1039), relating to townsites in the Blackfeet Indian lands, and section 14 of the act approved May 30, 1908 (35 Stat., 563), relating to townsites in the Fort Peck Indian lands, will be administered in accordance with the regulations

in this circular provided for townsites in the Flathead Indian lands, except that in townsites in the Fort Peck Indian lands five lots instead of two may be awarded preference-right claimants, under the conditions and restrictions provided in said regulations for the entry of two lots.

IN WASHINGTON.

Townsites in Colville and in Spokane Indian lands under the acts approved March 22, 1906 (34 Stat., 82, sec. 11), and May 29, 1908 (35 Stat., 459, sec. 4), respectively, will be selected and reserved by the Secretary of the Interior, and will thereafter be surveyed, appraised, and disposed of in accordance with the regulations in this circular provided under section 2381, U. S. Rev. Stats.

IN IDAHO.

Townsites in Coeur d'Alene Indian lands, under act approved June 21, 1906 (34 Stat., 337), will be selected and reserved by the Secretary of the Interior and thereafter surveyed, appraised, and disposed of in accordance with the regulations in this circular provided under section 2381, U. S. Rev. Stats.

IN CALIFORNIA AND ARIZONA.

Townsites in Yuma and Colorado River Indian lands, under that portion of the act approved April 30, 1908 (35 Stat., 77), relating to townsites in said lands, will be selected and reserved by the Secretary of the Interior and will be thereafter surveyed, appraised, and disposed of in accordance with the regulations in this circular provided under section 2381, U. S. Rev. Stats.

TOWNSITES IN RECLAMATION PROJECTS.

Withdrawal, survey, appraisement, and sale.—Townsites in connection with irrigation projects may be withdrawn and reserved by the Secretary of the Interior under the acts approved April 16 and June 27, 1906 (34 Stat., 116, secs. 1, 2, and 3, and 519, sec. 4), respectively, and thereafter will be surveyed into town lots with appropriate reservations for public purposes, and will be appraised and sold from time to time in accordance with the regulations in this circular provided under section 2381, U. S. Rev. Stats.

The public reservations in each town shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as a municipal corporation, said reservations shall be conveyed to such corporation in its corporate name, subject to the condition that they shall be used forever for public purposes. To secure such conveyances the municipality shall apply through its proper officer for a patent to such reservations, and

furnish proof in manner, form, and substance as required under the regulations in this circular for patents to public reserves in Oklahoma townsites under section 22 of the act approved May 2, 1890 (26 Stat., 91)

PARKS AND CEMETERIES.

The right of entry under the act approved September 30, 1890 (26 Stat., 502), is restricted to incorporated cities and towns, and each of such cities and towns shall be allowed to make entries of tracts of unreserved and unappropriated public land, by government subdivisions, not exceeding, in all entries hereunder by such city or town, a quarter section in area, all of which must lie within three miles of the corporate limits of the city or town for which the entries are made.

Where on unsurveyed land.—If the public surveys have not been extended over the land sought by any city or town under the provisions of said act, it shall first be necessary for the proper corporate authority to apply to the surveyor-general of the district in which the tract in question is located for a special survey of the outboundaries of such tract. The application should describe the character of the land sought to be surveyed and, as accurately as possible, its area and geographical location. Tracts covered by such special surveys must be as nearly as practicable in square form, and entries of the same will not be allowed until after the surveys shall have been approved by the surveyor-general and accepted by the Commissioner of the General Land Office. The current appropriation for "surveying the public lands" being applicable to the survey of "lines of reservations," as well as to the extension of the ordinary lines of the system of public-land surveys, the cost of the surveys of all unsurveyed lands selected under the provisions of said act of September 30, 1890, will be paid for out of said appropriation, the same as the special surveys of the outboundaries of town sites and for like reasons (see case of Fort Pierre, 18 C. L. O., 117), and the deputies employed by the surveyor-general to execute such special surveys will report whether the land is either mineral in character or within an organized mining district.

Application and proof.—An application for the purposes indicated herein can only be made by the municipal authorities of an incorporated city or town; and in all cases the entries will be made and patents issued to the municipality in its corporate name, for the specific purpose or purposes mentioned in said act.

The land must be paid for at the government price per acre, after proof has been furnished satisfactorily showing—

First. Six weeks' publication of notice of intention to make entry, in the same manner as in homestead and other cases.

Second. The official character and authority of the officer or officers making the entry.

Third. A certificate of the officer having custody of the record of incorporation, setting forth the fact and date of incorporation of the city or town by which entry is to be made, and the extent and location of its corporate limits.

Fourth. The testimony of the applicant and two published witnesses to the effect that the land applied for is vacant and unappropriated by any other party, and as to whether the same is either mineral in character or located within an organized mining district or within a mining region.

Fifth. In case the land applied for is described by metes and bounds, as established by a special survey of the same, that the applicant and two of the published witnesses have testified from personal knowledge obtained by observation and measurements that the land to be entered is wholly within 3 miles of the corporate limits of the city or town for which entry is to be made.

Certificates.—Where the proof shows that the land is mineral in character, located in a mining district, or is within a region known as mineral lands, the certificate of entry shall contain the following proviso:

Provided, That no title shall be hereby acquired to any mineral deposits within the limits of the above-described tract of land, all such deposits therein being reserved as the property of the United States.

CEMETERIES.

Who may enter.—Under the act approved March 1, 1907 (34 Stat., 1052), the right to purchase public land for cemetery purposes is limited to religious, fraternal, and private corporations or associations, empowered to hold real estate for cemetery purposes by the laws under which they are organized. Such corporation or association shall be allowed to make but one entry of not more than eighty acres of contiguous tracts by government subdivisions of nonmineral, unreserved, and unappropriated public land.

Where on unsurveyed land.—If the public surveys have not been extended over the land so sought to be entered, the corporation or association should first apply to the proper surveyor-general for a special survey of the exterior lines of the tract desired, describing the topographical character of the land and its area and geographical location as accurately as possible. Such tracts must be as nearly as practicable in a rectangular form, and after the survey and plat thereof has been made, approved by the surveyor-general, accepted by this office, and filed in the local office, application may then be made for the entry of the land under said act. The cost of such surveys will be paid out of the current appropriation for "surveying the public lands," and the deputies employed will report whether the land is mineral in character.

The proof must satisfactorily show—

First. The filing of a notice of intention to make proof, the issuance, in manner and form so far as possible as in other cases provided, of the publication notice, to be published and posted for the time and in the manner provided by the act of March 3, 1879 (20 Stat., 472), and the regulations thereunder.

Second. The official character of the officer or officers applying on behalf of the association or corporation to make the entry, and his or their express authority to do so conferred by action of the association.

Third. A copy of the record, certified by the officer having charge thereof, showing the due incorporation and organization and date thereof of the association or corporation and its location and address. The law under which it is organized and by which it derives its authority to hold real estate for cemetery purposes must also be cited.

Fourth. That the land applied for is nonmineral, vacant, and unappropriated public land, and the extent to which it is used for cemetery purposes, and when first so used, if it is so used, which must be shown by the testimony of the applicant and two of the advertised witnesses.

Price.—The land must be paid for at such price per acre as shall be determined by the Commissioner of the General Land Office, provided that in no case shall the price be less than $1.25 per acre.

Entries under this act must issue to the association or corporation in its corporate name, and the granting clause in the certificate should state that the patent to be issued for the tract described is "for cemetery purposes, subject to reversion 'to the United States should the land or any part thereof be sold or cease to be used for the purpose' in said act provided." Inasmuch, however, as the Commissioner of this office determines the amount of the purchase price under the existing conditions in each particular case, the register and receiver will, when proof is made to their satisfaction, immediately forward such proof to this office with their recommendation thereon without collecting any money as the purchase price and without issuing the final papers. If this office finds the proof satisfactory, the Commissioner will fix the purchase price, and the local officers will, on being notified thereof and no objection appearing thereto in their office, notify the applicant of the amount required and allow him thirty days from service of such notice to pay such purchase price, and on receipt thereof the entry will be issued.

Special order to Commissioner of June 11, 1896, is reissued as follows:

In addition to cases specified in departmental order of January 29, 1896 (22 L. D., 120), you are directed to transmit for disposition as "current work" all cases involving townsite entries.

In all cases classified as current work, when sending out notice of your decisions, you will inform the parties interested of that fact, and that the rules relating to filing arguments will be strictly enforced. 22 L. D., 675.

FRED DENNETT, *Commissioner.*

This circular approved, August 7, 1909.

JESSE E. WILSON,
Acting Secretary.

APPENDIX.

FORMS.

SCHEDULE OF APPRAISEMENT.

Valuation of lots and blocks in the townsite of ———, State of ———, appraised under—

Block.	Lot.	Area.	Valuation.		Character of land.	Remarks.
			Dollars.	Cents.		

———— ————, ———— —, 19—.

We, the undersigned, constituting the Board of Appraisers appointed under ———— ———— ————, to examine and appraise the surveyed and platted lots described in the foregoing list and designated on the approved plat of the townsite of ———— ————, do hereby certify that on the —— day (or days) of ———, 19—, we visited and examined each of said town lots; and that the valuation placed upon each lot as designated in the foregoing list is the fair, just, and full cash value thereof according to the best of our judgment.

———— ————
———— ————
———— ————} *Board of Appraisers.*

No. ——.

APPLICATION UNDER SECTION 2387, U. S. REV. STATS.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
———— —, 19—.

—, ———— ————, as ———— ————, of ——— County, State of ———, do hereby apply to purchase, under sections 2387 to 2393, inclusive, U. S. Rev. Stats., ———— ————, Sec. ——, T. ——, R. —— of ——— Principal Meridian, containing ——— acres, at the sum of $ ——— for the townsite of ———.

My post-office address is ———, ———.

———— ————.

I hereby certify that the land above described contains ——— acres, and that the purchase price therefor is $———.

———— ————, *Register.*

No. ——.

APPLICATION TO PURCHASE TOWN LOTS.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— —, 19—.

—, ——— ———, of ——— County, State of ———, do hereby apply to purchase, under ———, Lot ——, Block No. ——, in the townsite of ———, ———, as delineated and designated in the approved plat thereof, containing ——— ———, at the sum of $———.

My post-office address is ———, ———.

——— ———.

I hereby certify that the land above described contains ——— ———, and that the purchase price therefor is $———.

——— ———, *Register*.

No. ——.

APPLICATION TO PREEMPT TOWN LOTS.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— ——, 19—.

I, ——— ———, of ——— County, State of ———, do hereby apply to purchase, under ———, Lot No. ——, in Block No. ——, in the townsite of ———, ———, as delineated and designated in the approved plat thereof, containing ———, at the sum of $———, basing said application on the following facts: That I am — years of age (and, if under 21 years of age, add, and the head of a family); that I am a native-born citizen of the United States (or have declared my intention to become a citizen of the United States); that my post-office address is ———, ———; and that my settlement, the date thereof, and the value and character of my improvements on said lot are as follows: ——— ———.

——— ———.

I hereby certify that the lot above described contain- ———, and that the purchase price thereof is $———.

——— ———, *Register*.

No. ——.

APPLICATION FOR PREFERENCE RIGHT OF ENTRY IN FLATHEAD INDIAN LANDS, MONTANA.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— —, 19—.

I, ——— ———, of ——— County, State of ———, do hereby apply to purchase, under the Act approved June 21, 1906 (34 Stat., 354), Lot No. ——, in Block No. ——, in the townsite of ———, ———, as delineated and designated on the plat thereof approved by the Department of the Interior on ——— —, 19—, containing ———, at the appraised price of $———, basing said application on actual residence and ownership of substantial and permanent improvements on said lot as follows: ——— ———.

——— ———.

I hereby certify that the lot above described contain- ———, and that the appraised purchase price thereof is $———.

——— ———, *Register*

NOTICE OF INTENTION TO MAKE PROOF.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— —, 19—.

—, ——— ———, as ——— ———, having applied to purchase, under ——— ———, the ——— ———, hereby give notice of ——— intention to make proof, to establish ——— right under said law to enter the land above described, before the ——— ———, at ———, ———, on ——— —, 19—, by two of the following witnesses:

——— ———, of ———, ———.
——— ———, of ———, ———.
——— ———, of ———, ———.
——— ———, of ———, ———.

——— ———.

Notice of the above application will be published in the ——— ———, printed at ———, ———, which I hereby designate as the newspaper published nearest the land described.

——— —, *Register*.

NOTICE FOR PUBLICATION OF MAKING PROOF.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— —, 19—.

Notice is hereby given that ——— ———, as ——— ———, has filed notice of his intention to make proof of his right to enter, under ——— ———, the ——— ———, and that said proof will be made before ——— ——— at ———, ———, on ——— —, 19—, and he names as his witnesses in making such proof—

——— ———, of ———, ———.
——— ———, of ———, ———.
——— ———, of ———, ———.
——— ———, of ———, ———.

——— ———, *Register*.

NOTICE OF PUBLIC SALE.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— —, 19—.

Notice is hereby given that on the ——— day of ———, 19—, at ———, ———, beginning at 10 a. m. of that day and continuing thereafter from day to day as long as may be necessary, we will offer at public outcry to the highest bidder for cash at not less than the appraised value thereof ——— ———, in the townsite of ———, ———, as delineated and designated on the plat of said townsite, approved ——— —, ——, now on file in our office.

The purchase price must be paid in cash to the receiver before the close of his office on the day the bid is accepted.

All parties are warned under the penalty named in section 2373, U. S. Rev. Stats., against any combination or action tending to hinder or embarrass the sale of said lots or to prevent free competition between bidders.

——— ———, *Register*.
——— ———, *Receiver*.

No. ——.

CERTIFICATE OF ENTRY UNDER SECTION 2387.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— —, 19—.

I hereby certify that, in pursuance of sections 2387 to 2393, U. S. Rev. Stats., ——— ———, of ——— County, State of ———, ha— this day purchased for the sum of $———, the ——— ——— of section No. ——, in township No. ——, of range No. —— of the ——— Principal Meridian, containing ——— acres, at the rate of $——— per acre for the townsite of ———.

Now, therefore, be it known, that on the presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to receive a patent for the land above described, in trust for the several use and benefit of the occupants thereof, according to their respective interests.

——— ———, *Register*.

No. ——.

CERTIFICATE OF ENTRY FOR TOWN LOTS.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———, ———,
——— —, 19—.

I hereby certify that in pursuance of ——— ———, ——— ———, of ——— County, has this day purchased for the sum of $———, Lot —, No. ——, in Block No. ——, in the townsite of ———, ———, containing ——— ———, as the same ——— delineated and designated on the plat of said townsite, approved by the Secretary of the Interior on ——— —, ——.

Now, therefore, be it known, that on the presentation of this certificate to the Commissioner of the General Land Office the said purchaser shall be entitled to receive a patent to said lot —.

——— ———, *Register*.

No. ——.

OKLAHOMA TOWNSITE RESERVATION CERTIFICATE.

DEPARTMENT OF THE INTERIOR,
LAND OFFICE AT ———,
——— —, 19—.

I hereby certify that, pursuant to the provisions of section 22 of the act of May 2, 1890 (26 Stat., 81), and the regulations thereunder, ——— ——— (mayor or trustee) of the town (or city) of ———, in ——— County, Oklahoma, has made application for patent to said town (or city) for ——— ——— in the townsite of ———, located on ———, Sec. ——, T. ——, R. ——, I. M., Oklahoma, reserved for said public purposes and delineated and designated on the plats of said townsite, approved by ——— ——— on ——— —, ——, said application being accompanied by satisfactory proof of the organization of said municipality, and of said ——— ——— authority to make application for patent for said reservations.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office, the said town (or city) of ——— shall be entitled to a patent for the tract (or tracts) of land above described, to be maintained for said public purposes as provided in the act herein mentioned.

——— ———, *Register*.

INDEX.

LAWS.

	Page.
Aliens may acquire town lots in Territories	17
Cemeteries	17
Homestead entries when allowed in corporate limits	6, 7
Mineral claims within townsites	5, 6, 8
Park and cemetery entries by cities and towns	17
Reservations for government use	6
Town sites:	
Additional	7
Ceded Indian land—	
Apache, Oklahoma	9
Blackfeet, Montana	14
Cheyenne River, South Dakota	11
Coeur d'Alene, Idaho	15
Colorado River, Arizona	15
Colville, Washington	14
Comanche, Oklahoma	9
Crow, Montana	12
Flathead, Montana	13, 14
Fort Peck, Montana	14
Kiowa, Oklahoma	9
Rosebud, South Dakota	10
Shoshone, Wyoming	12
Spokane, Washington	14
Standing Rock, North and South Dakota	11
Uintah, Utah	11
Walker River, Nevada	12
Wichita, Oklahoma	9
Wind River, Wyoming	12
Yuma, California and Arizona	15
Change of entry	6
Commuted homestead	8, 9
County seat	3
Entered by corporate authorities or county judges	5, 6
Platted by occupants	4, 5
Public reserves in	8, 9, 15, 16
Public reserves in vacated, how disposed of	9
Reclamation project	15, 16
Reserved by President	3
Vacated in Oklahoma	9

REGULATIONS.

Acts of Congress. (*See* Index to laws).	
Additional townsites	24
Adjustment. (*See* Survey.)	
Appraisement of lots:	
Ceded Indian lands	31–34
Flathead Indian lands	32, 33
Reclamation projects	34

	Page.
Area limited:	
Additional townsites	25
Cemeteries	35, 36
County seats	18
Entries by judges or corporate authorities	23
Lots in townsites platted by occupants	20
Parks and cemeteries	35
Reclamation project townsites	15, 16
Townsites platted by occupants	20
Cemeteries:	
Entries by incorporated cities and towns	35
Entries by private corporations or associations	36
Combinations in restraint of sale	19
Commutation of homesteads for townsites	27–30
Contests and protests:	
Involving commutation of homesteads for townsites	29
Involving lots in Flathead lands	33
Involving lots in townsites platted by occupants	21
County-seat townsites, how entered	18
Declaratory statement. (*See* Entry of townsites).	
Entry of cemeteries	35–37
Entry of parks and cemeteries	35
Entry of town lots within:	
Ceded Indian lands	31, 34
Flathead lands	32, 33
Reclamation projects	34
Reserved by President	19
Townsites platted by occupants	21, 22
Entry of townsites:	
Additional	24
By corporate authorities or county judges	22
Commutation of homesteads for	27
County seat	18
Declaratory statement initiates	23
Issued only after proof approved by General Land Office	25
Oklahoma ceded Indian lands	26
Forfeitures:	
Bids at public sale	19
Preemption right of entry	22
Preference right of entry	33
Forms:	
Appraisement schedule	38
Application for preference of entry in Flathead lands	39
Application to preempt town lots	39
Application to purchase town lots	39
Application under section 2387, Revised Statutes	38
Certificate of entry for town lots	41
Certificate of entry under section 2387	41
Notice for publication of making proof	40
Notice of intention to make proof	40
Notice of public sale	40
Oklahoma townsite reservation certificate	41
Hearings. (*See* Contest.)	
Homesteads. (*See* Commutation.)	
Indian lands:	
Blackfeet, Montana	33, 34
Cheyenne River, South Dakota	31
Coeur de'Alene, Idaho	34
Colorado River, Arizona	34
Colville, Washington	34
Crow, Montana	32
Flathead, Montana	32–34
Fort Peck, Montana	33, 34
Minnesota ceded	31
Rosebud, South Dakota	31
Shoshone, Wyoming	31
Spokane, Washington	34
Standing Rock, North and South Dakota	31

Indian lands—Continued. Page.
Uintah, Utah ... 31
Walker River, Nevada ... 31
Wind River, Wyoming ... 31
Yuma, California and Arizona ... 34
Isolated tracts, public reserves sold as ... 30
Laws. (*See* Index to laws.)
Millsites ... 22, 24, 26
Mineral claims ... 22, 24, 25, 26, 36, 37
Parks:
Entry by city or town ... 35
Lots or blocks reserved for ... 19, 27, 30, 34
Proof required in entries of:
Additional townsites ... 25
Cemeteries ... 35, 36
County seats ... 18
Homesteads commuted for townsites ... 27
Lots in reclamation projects ... 34
Lots in townsites platted by occupants ... 20
Lots under preference right ... 32
Parks and cemeteries ... 35
Public reserves ... 30, 34
Townsites by corporate authorities or county judges ... 23
Proof of claim to proceeds of sale of commuted homesteads ... 29
Practice. (*See* Contests.)
Order classifying townsites as current work ... 37
Protest. (*See* Contests.)
Purchase price of:
Cemeteries ... 35, 37
County seats ... 18
Homesteads commuted to townsites ... 28
Homesteads commuted to townsites, disposition of ... 29
Lots in Flathead lands ... 32, 33
Lots in Indian lands ... 31–34
Lots in townsites in reclamation projects ... 34
Lots in townsites platted by occupants ... 21
Lots in townsites reserved by President ... 19
On change of townsite entry ... 24
Parks and cemeteries ... 35
Public reserves in vacated townsites ... 30
Townsites entered by corporate authorities or county judges ... 24, 25
Townsites in Oklahoma ... 26
Railroad rights of way and station grounds:
Must be delineated on plats ... 20, 27
Subject to prior adverse rights ... 22, 24
Reservations:
Ceded Indian lands ... 26–34
Oklahoma townsites, how entered ... 30
Oklahoma townsites, how platted ... 27
Oklahoma vacated townsites, how disposed of ... 30
Public use in townsites reserved by President ... 19
United States use ... 6, 24
Settlement for townsite purposes segregates land ... 22
Survey of townsites:
Adjustment to township survey ... 21
Ceded Indian lands ... 31–34
Commuted homesteads ... 28
Department may make, when occupants fail ... 21
Flathead lands ... 32
Occupants may make ... 20
Reclamation project ... 34
Reserved by President ... 18
Reservations in Oklahoma, must be shown by plat ... 27
Surveyor-General to be notified ... 21
Unsurveyed public land ... 23, 35, 36
Unsurveyed land. (*See* Survey.)
Vacated townsites, disposal of public reserves in ... 30

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